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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

DATE: **APR 18 2013**

Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish he was eligible for late registration. The director also denied the application because the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant submits additional evidence in an attempt to establish late registration eligibility, continuous residence and continuous physical presence in the United States.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Secretary may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
    - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;

- (iii) The applicant is a parolee or has a pending request for reparole; or
- (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until September 9, 2013, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by U.S. Citizenship and Immigration Services (USCIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The record reveals that the applicant filed his initial TPS application [REDACTED] on October 6, 2003. On August 24, 2004, the Director, California Service Center, denied the

application because the applicant failed to register for TPS in a timely manner. No appeal was filed from the denial of that application.

The applicant filed the current application on March 6, 2012. The director determined that the evidence submitted failed to establish that the applicant was eligible for late registration and denied the application on August 15, 2012.

On appeal, the applicant claims that his mother is a TPS registrant and submits a copy of an employment authorization card belonging to [REDACTED]

In *Matter of N-C-M-*, 25 I&N Dec. 535 (BIA 2011), it was held that in order to qualify for late initial registration for TPS, an applicant filing as the “child of an alien currently eligible to be a TPS registrant” must establish that he or she was a “child” only “at the time of the initial registration period,” not at the time when the application for late initial registration is filed.

The employment authorization card alone is not sufficient to establish that the applicant was a child of a TPS registrant. The applicant has not provided his birth certificate (with English translation) to establish that a parent-child relationship exists.

The applicant has not submitted sufficient evidence to establish that he has met the criteria for late registration described in 8 C.F.R. § 244.2(f)(2)(iv). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second and third issues to be addressed are whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits:

- Wage and Tax Statements, Form W-2, for 2001 through 2004 and 2008 through 2011.
- Earnings statements dated during 2004 through 2012.
- Airline boarding passes dated March 24, 2001 and May 22, 2001 and passenger receipts dated March 24, 2001 and May 19, 2001 from [REDACTED]
- An airline confirmation printout dated August 15, 2012, for travel within the United States.
- A document from [REDACTED] written in the Spanish language.
- A Registration Form dated June 23, 2003 from [REDACTED] a document dated June 26, 2003 from the Internal Revenue Service; billing statements dated July 11, 2003, in 2007 and in 2008; a money gram receipt dated September 16, 2004; bank statements dated in 2005 and 2006; a cellular phone billing statement dated April 15, 2006; a vehicle registration card and a car insurance policy issued in June 2007; and vehicle registration renewal notices issued in 2008 through 2011.

The record contains a Form I-213, Record of Deportable Alien/Inadmissible Alien, which indicates that on February 18, 2001, the applicant was apprehended near Sarita, Texas. At the time of his apprehension, the applicant informed the immigration official that he departed El Salvador on January 18, 2001 and travelled through Guatemala and Mexico before illegally entering the United States on February 16, 2001.

The applicant has submitted sufficient evidence on appeal to establish his physical presence since March 9, 2001 in the United States. Therefore, the director's finding on this ground will be withdrawn. The applicant's arrival on February 16, 2001 in the United States was subsequent to the eligibility period. Therefore, he cannot meet the criteria for continuous residence in the United States since February 13, 2001 as described in 8 C.F.R. § 244.2 (c). Consequently, the director's decision to deny the application for TPS on this ground will be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

Finally, while not the basis for the dismissal of the appeal, it is noted that the record reflects that a Form I-862, Notice to Appear, was issued and served on the applicant on February 18, 2001. A removal hearing was held on August 22, 2001, and the applicant was removed *in absentia*. A Form I-205, Warrant of Removal/Deportation, was issued on August 22, 2001.

**ORDER:** The appeal is dismissed.